

**REMARKS/ARGUMENTS**

Claims 43-68 are pending in the present application. Claims 43, 44, 53, 54, 59-61, and 65-68 are amended and claims 45, 47-52, 55-58 and 62-64 are canceled in the present amendment.

Claims 44 and 64 are objected to because of certain informalities. Claim 44 is amended by changing the word "of" to "have." Claim 64 is canceled.

Claims 43, 48, 49, 51-54, 62, 63 and all claims depending therefrom are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 43, 53 and 54 are amended to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 48, 49, 51, 52, 62 and 63 are canceled.

Claims 43, 46-52 and 55-58 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,057,942 to Fay. Claim 43 is amended to include a plurality of frame members attached along the sides of each of the panels and a joinery system that connects the panels together in a spaced-apart relationship using a joining element, a centerline element and a span element. These elements are clearly not shown or suggested in Fay. Claims 47-52 and 55-58 are canceled.

In the present invention, at least two panels are connected along their sides and corners with frame members or webs connecting to a centerline element that is spaced-apart from the sides and corners of the panels by brackets and collars respectively. So the connected panels are

spaced-apart from each other and rotatably positioned around the centerline elements and vertices formed by intersecting centerline elements.

In addition, Fay can have only two panels connected about any given axis. Fay is not capable of positioning more than two panels through 360 degrees because the connection axis is adjacent the panel sides and offset with respect to the plane of the panels. The present invention is capable of positioning a plurality (more than two) of panels through 360 degrees because the connection axis is spaced-apart from the panel sides and centered exactly on the centerline of the plane of the panels. In the present invention, a plurality of panels may be connected about a given axis, because the frame members or sides of the connected panels are spaced-apart from each other. Therefore, more than two panels can be connected together about a given axis or centerline element.

Fay involves only one joinery system, overlapping knuckles and a pin. The knuckles are integral with the plates. The connection element is a solid, full length, panel-side, pin. The connection element is offset with respect to the plane of the panels. The present invention involves at least two joinery systems. The connection members are not integral with the panels. Struts and centerline elements are spaced-apart and linked to each other by brackets and webs. In the present invention, the centerline element is a hollow tubular element that is centered exactly on the centerline of the plane of the panels and designed to allow for the passage of utility lines.

Claim 43 is rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,723,382 to Lalvani. Claim 43 is amended to include elements not shown or suggested in Lalvani. Specifically, claim 43 is amended to include a plurality of frame members attached along

the sides of each of the panels and a joinery system that connects the panels together in a spaced-apart relationship using a joining element, a centerline element and a span element.

Claim 44 and 45 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fay.

Claim 44 is a dependent claim, dependent upon independent claim 43, and thus should be allowable for the above reasons as well as for the additional elements it contains. Claim 45 is canceled.

Claims 59-68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 59 is rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 60, 61 and 65-68 are dependent claims, dependent upon allowable independent claim 59, and thus should be allowable for the above reasons as well as for the additional elements they contain. Claims 62-64 are canceled.

It is quite apparent to the Applicant that the Fay reference, although involving a few similar patterns, is totally different and distinguishable from the present invention. It is inherently not applicable as a means for achieving the objectives sought by the Applicant in the development of the Fractionalized Cube Modular Construction System. The Fay construction unit has limited capabilities and it would be impossible to construct the structures shown in FIGS. 7A, 7B, 7C, 7D, 7E – 24A, 24B, 25, 26 and 27 of the present invention. In fact, it was to overcome the inherent limitations of systems such as illustrated in Fay that the Fractionalized Cube Modular Construction System of the present invention was developed.

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In view of the amendments and remarks presented above, the Applicant believes that the application is now in condition for allowance, and respectfully requests reconsideration of the application, withdrawal of the rejections and allowance of the claims. No new matter has been added to the application. The Applicant respectfully requests that the Examiner telephone the undersigned in the event a telephone conference would be helpful in advancing prosecution of the application.

Respectfully submitted,

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